

1 THE COURT: Thank you.

2 Mr. Rafael Rodriguez, in consideration of the  
3 offense of which you stand convicted, the information from  
4 the United States Attorney, your attorney, the probation  
5 officer and yourself, this Court sentences you to three  
6 years in the custody of the United States Attorney General.  
7 The Court imposes upon you no fine due to your inability to  
8 pay a fine. The Court imposes the \$100 special assessment.

9 In addition to the general requirements -- oh, the  
10 Court imposes a period of two years of supervised release,  
11 and in addition to the general requirements of such  
12 supervised release orders that you are prohibited from  
13 possessing a firearm or other dangerous weapon. If deported  
14 you're to leave the United States, not to return without the  
15 prior permission of the United States -- well, no, without  
16 the prior permission of the Secretary of the Department of  
17 Homeland Security.

18 You shall use your name, your true name, and you're  
19 prohibited from using any false names or false identifiers.

20 Mr. Rodriguez, let me explain this sentence.  
21 There's been a lot of talk here that is very important to  
22 the lawyers, including your lawyer protecting your rights.  
23 And it's important to the Court that I explain myself  
24 correctly. But to you I understand it's all mumbo-jumbo. I  
25 give you a three year sentence, sir, because you were once

1       deported for serious misconduct and you came back after that  
2       deportation.

3               That sentence is an appropriate and a just sentence  
4       under all the circumstances. You will have credit toward  
5       the service of that sentence, well, it looks like from  
6       April 9, 2004. Is that not correct?

7               THE PROBATION OFFICER: He was in, he was in ICE  
8       custody from April 9th to April 29th and was then  
9       transferred to federal custody for this offense. So BOP may  
10      or may not give him credit for the time in ICE custody.

11              THE COURT: I'm going to give him credit from April  
12      9th, 2004.

13              You are advised, sir, that you have the right to  
14      appeal -- so does the United States -- from any findings or  
15      rulings the Court has made in this case. And I state  
16      expressly on the record should either party appeal and  
17      should the sentence of this Court be reversed in whole or in  
18      part, I state now the sentencing will be before some other  
19      judge. That's to avoid being ordered off the case.

20              THE PROBATION OFFICER: Excuse me, your Honor?

21              THE COURT: I do the best I can at the time I  
22      impose sentence. I reserve my right to write an opinion on  
23      the legal issue. I don't promise it.

24              Yes?

25              THE PROBATION OFFICER: Your Honor, I apologize.

1           The probation officers ask that as an additional  
2     sanction, part of the Justice For All Act, that the Court  
3     say that the defendant will submit to the collection of a  
4     DNA sample as directed by the probation office.

5           THE COURT: It was my mistake and I do add that  
6     special condition. Ought that not be part of the general  
7     conditions?

8           THE PROBATION OFFICER: Yes. It's now included  
9     generally.

10          THE COURT: Since that is the law, I'll make it  
11     part of the general conditions.

12          Thank you all.

13          THE PROBATION OFFICER: Thank you.

14          THE COURT: He's remanded to the custody of the  
15     marshals.

16          (Whereupon the matter concluded.)

17

18

19

20

21

22

23

24

25

